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10

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,469	09/15/2000	Heinz Focke	204,758	2734

7590 05/01/2002

Abelman Frayne & Schwab  
150 East 42nd Street  
New York, NY 10017-5612

EXAMINER

TRUONG, THANH K

ART UNIT	PAPER NUMBER
3721	6

DATE MAILED: 05/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

14

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/663,469	FOCKE ET AL.	
	Examiner	Art Unit	
	Thanh K Truong	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 15 September 2000.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) 1 and 2 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 3-16 is/are rejected.

7) Claim(s) 14 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 1 and 2 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.
2. Applicant's election of Group II, claims 3-16 in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Priority***

3. Acknowledgment is made of applicant's claim for foreign priority based on the applications filed in Germany on September 15, 1999 and November 10, 1999. It is noted, however, that applicant has not filed the certified copies of the 19944086.7 and 19954169.8 applications as required by 35 U.S.C. 119(b).

***Information Disclosure Statement***

4. The information disclosure statement filed November 15, 2000 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is

not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

***Drawings***

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "36" (figure 2) and "37" (figure 6) have both been used to designate the heating element of the bottom heating plate. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "35" (figure 2) has been used to designate both the top carrying plate and the bottom carrying plate. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

7. The disclosure is objected to because of the following informalities: different reference number for same part; "heating element 36, 37" (page 5, line 25) and "heating element 71" (page 9, line 6).

Appropriate correction is required.

***Claim Objections***

8. Claim 14 is objected to because of the following informalities: the word "oliquely" on line 7 is misspelled. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 3-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the latter" in lines 10-11. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Focke (4,843,800) in view of Cerf (4,870,802).

Focke discloses an apparatus comprising: the packs 10 can be transported cyclically along a straight conveying path in a plurality of two pack rows arranged one

above the other (figure 1); in a first region of the conveying path, a sealing station with sealing jaws 45, 46 arranged at either side of the conveying path for the purpose of sealing the laterally directed folding tabs (figure 2).

Focke discloses the claimed invention, except for a shrinking station that follows the sealing station.

Cerf discloses an apparatus that has a shrinking station 42 for shrink and tightly wrap the shrinkable material around the package.

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Focke apparatus by applying the shrinking station taught by Cerf and place the shrinking station after the sealing station for shrink wrap packaging that provide quality and speed (abstract).

#### ***Allowable Subject Matter***

13. Claims 4-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



tkt  
April 24, 2002

**Rinaldi I. Rada**  
**Supervisory Patent Examiner**  
**Group 3700**